

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FACEBOOK, INC.,
Plaintiff,

v.

BRANDTOTAL LTD., et al.,
Defendants.

Case No. 20-cv-07182-JCS

**ORDER TO SHOW CAUSE WHY
ADMINISTRATIVE MOTIONS TO
FILE UNDER SEAL SHOULD NOT BE
DENIED AND WHY ORDER DENYING
TRO SHOULD NOT BE FILED IN THE
PUBLIC RECORD**

Re: Dkt. Nos. 26, 38, 49, 58

Defendants BrandTotal Ltd. and Unimania, Inc. (collectively, “BrandTotal”) moved to seal portions of their motion for a temporary restraining order, reply brief, and other documents supporting that motion. Plaintiff Facebook, Inc. moved to seal portions of its opposition brief based on BrandTotal’s assertions of confidentiality, and BrandTotal filed a responsive declaration supporting sealing that information. In an order filed provisionally under seal, the Court has now DENIED BrandTotal’s underlying motion for a temporary restraining order.

In civil action in federal court, a party must show “compelling reasons” to file a document under seal in connection with a motion “more than tangentially related to the merits,” which includes motions for preliminary injunctive relief. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096, 1102 (9th Cir. 2016). Requests to file under seal “must be narrowly tailored to seek sealing only of sealable material,” which often requires redactions rather than sealing of documents in their entirety. *See* Civ. L.R. 79-5(b).

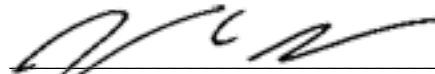
While the Court appreciates BrandTotal’s restraint in identifying only discrete sections of the documents at issue for sealing, significant portions of BrandTotal’s proposed redactions overlap with unredacted arguments in BrandTotal’s briefs. Other portions of the proposed redactions describe the operation of a software product whose source code was made available to

1 the public, and which a Facebook witness who analyzed that source code describes in detail in a
2 public declaration. The Court therefore concludes that BrandTotal has not “narrowly tailored” its
3 request, as required by Local Rule 79-5(b), to only seek redaction of material where compelling
4 reasons require sealing. BrandTotal is ORDERED TO SHOW CAUSE why all of the pending
5 motions to seal should not be denied, by filing a renewed consolidated request no later than
6 November 9, 2020 identifying narrower portions of the documents at issue that must be redacted.¹

7 In an abundance of caution, because the Court’s November 2, 2020 order denying the
8 underlying motion references material that BrandTotal moved to seal, the Court has filed that
9 order provisionally under seal. If BrandTotal believes compelling reasons support maintaining
10 any portion of that order under seal, BrandTotal may propose redactions to the order by the same
11 deadline.

12 **IT IS SO ORDERED.**

13 Dated: November 2, 2020

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15 JOSEPH C. SPERO
16 Chief Magistrate Judge

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28 ¹ The documents at issue are BrandTotal’s motion, Oren Dor’s declaration, Alon Leibovich’s first
declaration and certain exhibits thereto, Facebook’s opposition brief, BrandTotal’s reply brief,
Alon Leibovich’s reply declaration, and BrandTotal’s Exhibit P.